

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	1915.02
COMPLAINT INVESTIGATOR:	Connie Rahe
DATE OF COMPLAINT:	May 15, 2002
DATE OF REPORT:	June 21, 2002
REQUEST FOR RECONSIDERATION:	n/a
DATE OF CLOSURE:	August 20, 2002

The original deadline for this report was June 14, 2002. However, due to the need for additional time to complete the investigation report, the associate superintendent extended the deadline on that date to June 21, 2002.

COMPLAINT ISSUES:

Whether the School City of Hammond violated:

511 IAC 7-25-4 by failing to conduct an educational evaluation and convene a case conference committee within 60 instructional days of the parent's written consent in January 2001 and January 2002.

511 IAC 7-29-8 and 511 IAC 7-29-1 by suspending a student for more than 10 consecutive instructional days when the school was deemed to have knowledge of the suspected disability because the parent had requested an evaluation of the student.

FINDINGS OF FACT:

1. The student ("Student") is 13 years of age, has just completed grade six, and was determined eligible for special education services as a student with an emotional disability on May 30, 2002.
2. The student was identified as eligible for Section 504 services on January 28, 2000, following a General Education Intervention, and continued to receive services under a Section 504 Plan until determined eligible for special education and related services.
3. According to the Complainant, she sent a letter of referral on May 19, 2000, at the direction of her advocate, requesting an evaluation for services under the IDEA. The School reports it has no record of receiving a letter from the Complainant. The Complainant or the School took no further action until October 18, 2000, when the Complainant signed the School's forms for requesting an educational evaluation. An evaluation was conducted and the CCC convened on January 10, 2001. Although the CCC determined the Student was not eligible for special education and related services at that time, medical reports indicated that the Student's medication and chronic illnesses "may affect [the Student's] behavior in the classroom." The Student continued to receive services pursuant to a Section 504 Plan. Forty-two instructional days elapsed between October 18, 2000, and January 10, 2001.
4. On October 1, 2001, at a Section 504 conference and subsequent to the Student being suspended, the Complainant reports she made a verbal request for an evaluation for special education services. The Complainant asserts she reiterated this request at another conference a week later when the Student

was moved to an alternative educational program. Neither of these verbal requests is documented in the conference notes, and the Complainant did not follow up on the reported verbal requests.

5. At a Section 504 conference on January 22, 2002, the school and the Complainant discussed the effectiveness of the alternative program in meeting the goals established which were behavioral rather than academic. The Complainant asserts she again verbally requested an evaluation for special education services and contends School personnel told her she could have the Student evaluated by a psychiatrist to see if there were areas for which the Student would qualify for special education. The conference notes indicate the Complainant was "considering a psychiatric evaluation" at a clinic with whom the School contracts for psychiatric and counseling services. However, there is nothing in the conference notes to indicate the Complainant requested the School conduct an evaluation for special education services, nor is there anything to indicate the Complainant followed up with the reported verbal request.
6. The Complainant obtained a psychiatric evaluation of the Student at her own expense. A Section 504 conference was held on March 7, 2002, to review the psychiatrist's report. During that conference, the school agreed that an evaluation for special education services was needed, and the Complainant signed consent for the School to conduct an evaluation. The evaluation was conducted, and the CCC convened on May 21, 2002. The CCC determined the Student eligible for special education services at that time, but the Complainant did not consent to the eligibility determination until May 30, 2002. Forty-eight instructional days elapsed between the parent's written consent and the CCC determination of eligibility.
7. The Student was suspended and subsequently expelled from school on April 10, 2000. The Student returned to School on May 22, 2000, having been out of School for 24 consecutive instructional days. Although the Complainant asserts she sent a letter requesting an educational evaluation during the period of the Student's suspension, the School reports it has no record of the request. The Student was suspended again from September 19 to October 15, 2001, for a total of 18 consecutive instructional days. Although the Complainant reports she made a verbal request for an evaluation at a 504 conference convened during this period of suspension, there is no documentation in the conference notes to confirm that such request was made.

CONCLUSIONS:

1. Findings of Fact #3 through #6 indicate that the School completed the educational evaluations and convened the CCC within sixty instructional days of the date of the Complainant's written consent on October 18, 2000, and March 7, 2002. Therefore, no violation of 511 IAC 7-25-4 is found. Although Finding of Fact #3 identifies that the Complainant reports submitting a written request for an evaluation in May 2000, there is no documentation to establish the School's receipt of this request. Therefore, there is no violation of 511 IAC 7-25-4 in this instance.
2. 511 IAC 7-29-8 affords a student who has not yet been identified as a student with a disability with the protections of Article 7 if the school is deemed to have knowledge that the student is a student with a disability as defined by Article 7. A school is not deemed to have knowledge if the school has evaluated the student and the CCC has determined the student is not eligible for special education and related services. Finding of Fact #7 indicates that the Student was suspended for 24 instructional days in April and May 2000 and for 18 instructional days in September and October 2001. Finding of Fact #3 reflects that, although the Complainant asserts she made a written request for an evaluation during the first period of suspension, there is no documentation that the School received such request. By the time of the second period of suspension, the Student had been evaluated and determined ineligible for

special education services approximately eight months prior to the suspension. Therefore, the School is not deemed to have knowledge that the Student was a student with a disability, and the School is not required to afford the protections of 511 IAC 7-29-1. No violation of 511 IAC 7-29-8 or 511 IAC 7-29-1 is found.

The Department of Education, Division of Exceptional Learners requires no corrective action based on the Findings of Fact and Conclusions listed above.